



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Enforcement

December 21, 2020

Filed on ECF

The Honorable Vernon S. Broderick
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

**APPLICATION GRANTED
SO ORDERED**

Vernon S. Broderick
VERNON S. BRODERICK
U.S.D.J. 12/22/2020

Re: U.S. Commodity Futures Trading Commission v. William Byrnes, et al., 13 Civ. 1174 (VSB)

Dear Judge Broderick:

We are counsel for Plaintiff U.S. Commodity Futures Trading Commission (the “Commission”) in the above-referenced matter.

We write to advise the Court that with the assistance of Magistrate Judge Sarah Netburn, Plaintiff’s Division of Enforcement (the “Division”) and Defendant Eibschutz were able to reach a proposed agreement to settle the remaining claim against Eibschutz which would resolve the litigation in its entirety. A proposed Consent Order will be submitted for Your Honor’s consideration upon receipt of Commission approval.¹

The Commission is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 1 et seq., and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. Although the Commission prosecutes actions through its Division of Enforcement, the Division itself does not possess independent settlement authority. Rather, the Division presents executed offers of settlement with its recommendation to the agency’s Commissioners for the Commission’s approval. *See, e.g.*, 17 C.F.R. § 10.108.

Accordingly, to avoid the unnecessary expenditure of Court and party resources and to give the Division time to present the proposed settlement to the Commission and obtain its approval, Plaintiff and Defendant Eibschutz jointly request that the Court stay the case and adjourn all pretrial deadlines. The parties propose to submit a status report on or before January 29, 2021, advising the Court with respect to the status of the Commission’s review and approval of the proposed settlement with the Defendant Eibschutz, and to request such further relief as may be appropriate.

¹ On August 3, 2020, this Court approved a settlement between Plaintiff and Defendants Byrnes, Curtin and NYMEX, and entered the *Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendants William Byrnes, Christopher Curtin, and the New York Mercantile Exchange, Inc.* (“Prior Consent Order”) (Docket No. 227).

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Respectfully submitted,

/s/ Patryk J. Chudy

Patryk J. Chudy

cc: Hon. Sarah Netburn (Netburn_NYSDChambers@nysd.uscourts.gov)
All counsel (by ECF)